Claim Rejections under 35 USC 112

Claims 1-8 have been amended so as to conform with the Examiner's observations under 35 USC 112. Claims 9-15 have been cancelled. Additionally, Applicant has generally rewritten claims 9-15 as new claims 16-27, so as to conform with the Examiner's observations under 35 USC 112.

Claim Rejections under 35 USC 103

Applicant respectfully submits that the claims are not rendered obvious by the prior art cited by the Examiner. The Examiner has cited a number of references that discuss various aspects of Applicant's invention, such as sulfur, mustard seed and a cupric salt, but no single reference discloses Applicant's claimed combination, sulfur, mustard seed and a cupric salt and there is no motivation to combine any of the asserted references.

The Examiner has not established a prima facie case of obviousness. As required by MPEP 706.02(j), to establish a prima facie case of obviousness, the Examiner must explain why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification. The Examiner has simply stated that mustard seed, cupric salts, camomile, camphor and potassium iodate were known ingredients having the beneficial effect of treating rheumatic syndromes. However, this assertion falls short of the requirement that there must be some suggestion or motivation to modify the reference or combine the teachings. Further, the Examiner

assertions demonstrate a lack of motivation to make such a combination. The Examiner asserts that, because each of these compounds has therapeutic effects in treating rheumatic syndromes, it would be obvious to combine these compounds to further treat rheumatic syndromes. If any of these compounds is sufficient *per se* to treat rheumatic syndromes, then there is essentially a teaching away from Applicant's invention. If only one of these compounds is effective to treat a rheumatic syndrome, then there is no need or reason to combine any of these compounds. If there is no need or reason to combine any of these compounds, there is no motivation to combine.

Additionally, the Examiner's assertion that the combination would be obvious because any of the above-referenced compounds is effective to treat rheumatic syndromes ignores the realities of the pharmaceutical sciences, especially as to be applied to human subjects. Just because a number of compounds are known to have beneficial effects in treating a certain ailment does not necessarily encourage a scientist to combine a number of these compounds to achieve the desired effect. A number of considerations are related to combining compounds, such as unintended interactions between the compounds, etc. Therefore, the mere fact that certain compounds are known to be potentially useful in treating a specific disorder does not provide sufficient motivation to encourage one to combine those compounds.

Because the Examiner has not demonstrated why one of ordinary skill in the art would have been motivated to make Applicant's invention, no prima facie case of obviousness has been established. Because no prima facie case of obviousness has been

established regarding the claims, it is submitted that the rejection of the claims is improper. Accordingly, it is respectfully requested that the rejection of the claims under 35 USC 103 be withdrawn.

The Examiner has also asserted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the instantly claimed ingredients for their known benefit since each is well known in the art for their claimed purpose. Further, the Examiner asserted that no invention resides in combining old ingredients of known properties where the results obtained thereby are no more than the additive effect of the ingredients. With attention drawn to the Applicant's disclosure, page 2, paragraph 5, Applicant asserts that its various combinations produce unexpected results. The particular combination of, among other things, sulfur, mustard seed and a cupric salt yield unexpected results and beneficial properties. Because Applicant's combination yields unexpected results, it is not obvious. Therefore, it is respectfully requested that the rejection of the claims be withdrawn.

It is respectfully submitted that all pending claims are in a condition for allowance. Allowance of the pending claims is respectfully requested.

The Examiner is invited to telephone Applicant's representative to discuss any matters further.

If any fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. 33809.

Respectfully submitted,

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Attachments: Marked Up Version of Claims Amendments

Marked Up Version of Claims Amendments

Serial No. 09/889,752

1. A ~~P~~pharmaceutical preparation for treating rheumatic syndromes~~, especially rheumatism, arthritis, sciatica and/or gout, characterized in that it contains at least the following active agents~~ comprising: ~~S~~sulfur, mustard seed and ~~as well as~~ a cupric salt.

2. The ~~P~~pharmaceutical preparation of ~~especially as per~~ claim 1, ~~characterized in that~~ wherein the cupric salt ~~employed~~ is copper sulfate.

3. The ~~P~~pharmaceutical preparation of ~~especially as per~~ claim ~~1 or~~ 2 further comprising~~, additionally containing~~ chamomile ~~and preferably chamomile flowers~~.

4. The ~~P~~pharmaceutical preparation ~~especially as per one~~ of ~~the~~ claims ~~1 to~~ 3~~,~~ further comprising ~~containing~~ talc as a ~~its~~ carrier substance.

5. The ~~P~~pharmaceutical preparation ~~especially as per one~~ of ~~the~~ claims ~~1 to~~ 4~~,~~ further comprising ~~additionally containing~~ camphor.

6. The ~~P~~pharmaceutical preparation ~~especially as per one~~ of ~~the~~ claims ~~1 to~~ 5~~,~~ further comprising ~~additionally containing~~ potassium iodate.

7. The ~~P~~pharmaceutical preparation ~~especially as per one~~ of ~~the~~ claims 1 ~~to 5~~, wherein ~~characterized in that~~ the preparation is ~~produced~~ in powder form.

8. The ~~P~~pharmaceutical preparation ~~especially as per one~~ of ~~the~~ claims 1 ~~to 7~~, comprising ~~characterized by~~ the following volume concentrations ~~of the various components~~:

~~S~~sulfur:	30-50% by weight~~, preferably 30-40% by weight~~;
camomile:	0-10% by weight~~, preferably 5-10% by weight~~;
camphor:	0-25% by weight~~, preferably 15-25% by weight~~;
mustard seed:	0.5-2.5% by weight~~, preferably 1-1.5% by weight~~;
copper sulfate:	0.05-0.3% by weight~~, preferably 0.1-0.15% by weight~~;
potassium iodate:	0-0.15% by weight~~, preferably 0.05-0.1% by weight~~; and

talc making up the remainder up to 100% by weight.

16. A pharmaceutical preparation of claim 3, wherein the chamomile is chamomile flowers.

17. A process for producing a pharmaceutical preparation useful for the treatment of rheumatic syndromes, wherein the process comprises the steps of:

mixing components comprising talc and sulfur into a powder form; and

adding catalytic powder to the powder form;

wherein the catalytic powder is a pulverulent mixture comprising talc, mustard seed and copper sulfate.

18. The process of claim 17 wherein the components further comprise camphor.

19. The process of claim 18 wherein the components further comprise chamomile.

20. The process of claim 19, wherein the chamomile is chamomile flowers.

21. The process of claim 17, wherein the catalytic powder further comprises potassium iodate.

22. The process of claim 17, further comprising the step of blending the components and the catalytic powder.

23. A pharmaceutical preparation produced by claim 17, wherein the preparation is adapted to treat rheumatic syndromes.

24. A method for treating a disorder, wherein said method comprises the step of administering to a human the pharmaceutical preparation of claim 1, and wherein the disorder is sciatica, muscular rheumatism, arthritis, phlebitis, excessively high or low blood pressure, paralysis deformans, paralysis post myelitis, poliomyelitis, paralysis cerebralis, paralysis post nephritis vel uraemia, paralysis postlaesion cause alicuia mechanica, eczema, or x-ray-induced burns.

25. The pharmaceutical preparation of claim 8, wherein the sulfur is present in a volume concentration of 30-40% by weight, and wherein the camomile is present in a volume concentration of 5-10% by weight, and wherein the camphor is present in a volume concentration of 15-25% by weight, and wherein the mustard seed is present in a volume concentration of 1-1.5% by weight, and wherein the copper sulfate is present in a volume concentration of 0.1-0.15% by weight, and wherein the potassium iodate is present in a volume concentration of 0.05-0.1% by weight.

26. A method of claim 25, further comprising the step of cutaneously administering the pharmaceutical preparation.

27. The method of claim 26, wherein the pharmaceutical preparation is in the form of a powder suitable for application on a sole of a foot.